



Colac Otway  
SHIRE

**(PROPOSED) LOCAL LAW No. 1**

**GENERAL LOCAL LAW 2023**

PROPOSED

LOCAL LAW ADOPTED BY COUNCIL:

XX August 2023

OPERATION DATE:

XX August 2023

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**COLAC OTWAY SHIRE**  
**LOCAL LAW 1**  
**GENERAL LOCAL LAW 2023**

**PART 1- PRELIMINARY**

**1.1 Title**

(a) This Local Law (Local Law No. 1 – General Local Law 2023) will be known as the "General Local Law 223" and is referred to subsequently as the "Local Law".

**1.2 Purpose**

(a) The purpose of this Local Law is to:

- (1) provide for the peace, order and good government of the municipal district;
- (2) promote a physical and social environment free from hazards to health and assets, in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community;
- (3) provide for the management of domestic and farm animals in a manner that promotes welfare and reduces nuisance, harm or environmental damage to residents and property;
- (4) provide for the appropriate management of Council buildings and reserves; and
- (5) prevent and suppress nuisances which may adversely affect the enjoyment of life within the municipal district or the health, safety and welfare of persons and animals within the municipal district,

by:

- i. regulating and controlling activities which may be dangerous, unsafe or cause detrimental impact on quality of life or the environment within the municipal district;
- ii. providing standards and conditions for specified activities in order to reduce risk and increase safety.

**1.3 The power to make this Local Law**

(a) This Local Law is made under section 71 (1) of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

**1.4 Commencement**

(a) This Local Law:

- (1) Commences on the day following the gazettal of the Local Law in the Victorian Government Gazette.
- (2) This Local Law comes into operation the day after it is made.

### 1.5 Area of Operation

- (a) This Local Law operates throughout the whole of the Municipal District, including public lands to the high water mark of inland lakes and foreshore reserves.
- (b) This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

### 1.6 Previous Local Laws

- (a) On commencement of this Local Law, the following Local Laws are revoked:
  - (1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013)
  - (2) Local Law No. 2 – General Local Law commenced (September 2013)
  - (3) Local Law no. 3 – Livestock commenced (August 2013).

Save that any notice or consent given, or any business matter or thing commenced, made or done under the repealed Local Laws is not affected.

### 1.7 Local Law Cease to Operate

- (a) This Local law ceases to operate on XX August 2033, unless it is revoked sooner.

### 1.8 Incorporated documents, codes and policies

- (a) The following documents are incorporated into this Local Law in accordance with section 76 of the Act;
  - (1) Colac Otway Shire - Local Law No. 1 - General Local Law 2023 - Procedure Guidelines

### 1.9 Charter of Human Rights and Responsibilities

- (a) This Local Law was prepared following due consideration of the Charter of Human Rights and Responsibilities Act 2006.

### 1.10 Definitions

- (a) Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

**"Act"** means the *Local Government Act 1989 and 2020*.

**"aircraft"** means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface.

**"alcohol"** means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.

"**allotment**" means any land in separate ownership or occupation.

"**animal**" includes any mammal but excludes a human.

"**applicant**" means an applicant for a *permit* under this Local Law.

"**appointed agent**" means the *person* authorised in writing by an *owner* of land to make an application, appeal, referral or representation on the *owner's* behalf.

"**Asset Protection Permit**" means a *permit* issued by *Council* under clause 5.8 and 5.9

"**Authorised Officer**" means a *person* appointed by *Council* under section 224 of the *Local Government Act 1989* and includes all sworn members of the Victorian Police Force and Protective Services Officers.

"**bird**" means small birds suitable for domestic aviaries.

"**builder**" means:

- a builder under the Building Act 1993; and
- a builder under the Domestic Building Contracts Act 1995; and
- an owner of a building site.

"**builder's refuse**" includes any solid or liquid domestic or commercial waste, debris or rubbish, and includes glass, metal, plastic, paper, fabric, wood, food, food wrappers and containers, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work.

"**bulk rubbish container**" means a bin, skip or other container used for the deposit of waste which is incapable of being lifted without mechanical assistance but excludes a bin used in connection with Council's waste collection service.

"**building site**" means any land on which building work is being undertaken.

"**building work**" has the same meaning as:

- In the Building Act 1993;
- Domestic building work in the Domestic Building Contracts Act 1995; and
- Includes building work that does not require a building permit.

"**camping**" means using a tent, *caravan*, articulated *recreational vehicle* self-propelled self contained motor home, *vehicle* or any temporary form of accommodation including sleeping bags or swags, for overnight sleeping.

"**caravan**" includes a mobile home and moveable *dwelling*.

"**carriageway**" means the portion of the *road* generally available for traffic by *motor vehicles*, whether sealed, formed or unconstructed.

"**cattle**" means any bull, cow, ox, steer, heifer, calf or buffalo.

"**charity bin**" means any bin placed by or on behalf of any charitable or non-profit organization and dedicated to the collection of used clothing or small household items.

**"Chief Executive Officer"** means the *Chief Executive Officer of Council*.

**"Council controlled standpipe"** means a water outlet owned and maintained by the *Council* within the municipal district which is located in a *public place* and to which the public has access to water.

**"Commercial Area"** means an area zoned business or industrial under an applicable Planning Scheme.

**"Commercial Waste"** means a refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial industry.

**"Coordinating Road Authority"**, in relation to a *road*, means the *road* authority which has coordination functions as determined in accordance with section 36 of the *Road Management Act 2004*.

**"contaminated material"** means any material designated by *Council* as being incapable of deposit in a *Council*-approved mobile bin or other *Council*-provided bin or any class of such mobile or other bins.

**"construction period"** means the period during which *building work* is being carried on.

**"Council"** means Colac Otway Shire Council.

**"Council Building"** means any building which is owned, occupied or under the management or control of Council, and includes any recreation centre which is owned, occupied or under the management or control of Council.

**"Council infrastructure assets"** include any *road*, drain, drainage infrastructure, kerb and channel, *nature strip*, street tree, street sign or any other property vested in or under the control of *Council*, which:

- is adjacent to the a building site; or
- is likely to be affected by building work.

**"Council land"** means any land vested in or under the control of *Council*, including a *reserve*, watercourse, jetty, reservation and the like but excludes a *road*, except that part of the *road* which is the *nature strip* and footpath.

**"daylight hours"** means the hours between sunrise and sunset.

**"Declared State Road"** means a *road* declared under section 11 of the *Road Management Act 2004*.

**"disease"** means any contagious or infectious *disease* or any condition which *livestock* is subject, or an exotic *disease* as declared by the Governor in Council for the purposes of the *Livestock Diseases Control Act 1994*.

**"Designated Township Area"** means the settlement areas of Alvie, Apollo Bay, Barwon Downs, Beeac, Beech Forest, Birregurra, Carlisle River, Colac, Coragulac, Cororooke, Cressy, Elliminyt, Forrest, Gellibrand, Kennett River, Lavers Hill, Marengo, Pirron Yallock, Separation Creek, Skenes Creek, Warrion, Wye River and boundaries as defined in the Colac Otway Shire Rural Living Strategy.

**“droving of livestock”** means the *movement of livestock* within or through the municipal district including supplementing feeding.

**"dwelling"** means a building or portion of a building, which is used, or intended, adapted or designed, for residential purposes.

**“effective control”** means control by a *person* or *persons* alone or using dogs, devices, fences or other equipment so as to ensure that *livestock* are not trespassing or endangering *person* or objects.

**"EPA Alert Day"** means a day declared either totally or partially by the Environment Protection Authority as an Alert Day.

**“event”** means a planned gathering of people for a specific purpose on Council owned or managed land, where the number of people is greater than that normally found in that area or location at any one time. This activity may affect the location surrounding the area prior to, during or after the activity, and includes but is not limited to:

- Sporting activities (but does not include a regular, locally focussed and organised sporting competition permitted by a user agreement);
- One off or annual events such as fundraisers, religious meetings, weddings, functions, filming or broadcast activities, live performances and concerts, promotional activities and the like;
- Markets;
- Shows and Exhibitions; and
- Festivals.

**“event organiser”** means any individual, group or entity who undertakes the planning, control, management and/or implementation of an *event*.

**“exemption”** means an *exemption* issued by or under the authority of Council under this Local Law.

**"Fire Danger Period"** means the period declared by the Country Fire Authority to be a *fire danger period* under section 4 of the *Country Fire Authority Act 1958*.

**"fire hazard"** means anything that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of fire.

**"frontage"** means a boundary between an *allotment* and an adjoining *road*, and if an *allotment* adjoins more than one (1) *road*, means the boundary between the *allotment* and the *road* to which the largest building on the *allotment* fronts.

**"fully commingled recyclables"** means, for the purpose of *Council's* waste collection service:

- glass bottles and jars;
- aluminium cans, food trays and foil;
- steel cans;
- steel aerosol cans;

- liquid paperboard containers;
- HDPE, PET and PVC bottles and containers;
- newspapers;
- magazines;
- leaflets and 'junk mail';
- stationary;
- envelopes;
- telephones books;
- cardboard (flattened);
- miscellaneous paper, including paper from a home office; and
- any other material that Council prescribes to be fully commingled *recyclables*.

**"graffiti"** means any writing, drawing or like marking which has not been authorised by the owner or occupier of the land or Council.

**“grazing of livestock”:**

- means causing livestock to enter and remain on a road or roads within the municipal district for purposes of grazing rather than for purposes of droving or movement of livestock; and
- relates to grazing a particular or designated area and not to indiscriminate droving for purposes of or including supplementing feeding.

**“Guidelines”** means the Department of Transport and Planning Strategic Plan Guidelines for the Selection of Stock Crossing Sites and the Placement of Signs when Stock are on Roads.

**"household waste"** means, for the purpose of *Council's* waste collection service, all waste generated from residential and similar activities but excludes the following waste:

- fully commingled recyclables;
- organic waste;
- material prescribed by Council to be prohibited; and
- any other material that Council prescribes to be household waste.

**"incinerator"** means any structure, device or item of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and is not:

- enclosed in any building;
- a barbeque; or
- licensed under the provisions of the *Environment Protection Act 1970*.

**“Internal Infringement Review Panel”** means Council’s Internal Infringement Review Panel.

"**livestock**" means an animal (including a *bird*) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat.

"**local water authority**" means Barwon Region Water Authority or its successor in law.

"**minor building work**" means *building work* valued at less than \$5,000 but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).

"**motor vehicle**" has the meaning ascribed to it by the *Road Safety Act 1986*.

"**movement of livestock**" means individual or regular movement of livestock:

- as part of normal farm management operations of one farming enterprise but not for purposes of grazing;
- from one property within the municipal district to another property within the municipal district or from or to one property in the municipal district to or from a property within an adjacent municipal district;
- at the rate of not less than one kilometre per hour in the direction of movement between the two properties;
- where the properties concerned are occupied by the one farming enterprise; and
- the movement is completed on the day of commencement.

"**municipal district**" means the municipal district of Council.

"**Nature Strip**" means that part of any road which adjoins the land and which is designed or intended for pedestrian traffic or use and includes a lawn or garden and a crossing.

"**Non-Rural Area**" means any area within Colac, Elliminyt, Apollo Bay or any other designated township area as identified by the Colac Otway Shire.

"**Notice to Comply**" means a notice served under clause 14.2 of this Local Law.

"**Occupier**" includes any person who is residing or using a property as its owner or tenant with or without consent of the titled owner of the land.

"**organic waste**" means, for the purpose of Council's waste collection service, food organics as prescribed by Council and garden waste material, including:

- pruning's, small branches (not greater than 100mm in diameter or 300mm in length), twigs and including cut up palm fronds;
- leaves, small plants and grass clippings; and
- weeds and flowers (free of soil).

"**offence**" means an act or default contrary to this Local Law.

"**outdoor eating facility**" means any tables or chairs located out of doors at which food or drink may be served or consumed in connection with premises situated nearby.

"**owner**" means the owner of premises.

**“penalty”** means the maximum fine that may be imposed by a court of appropriate jurisdiction.

**“penalty unit”** has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*.

**“permit”** means a *permit* in writing issued by or under the authority of *Council* under this Local Law.

**“permit holder”** is the *person* to whom a permit has been issued under this Local Law.

**“permit fee”** means a fee fixed by resolution of *Council* or a statutory fee *prescribed* in legislation by the Victorian Government.

**“person”** has the same meaning as in Section 38 of the interpretation of *Legislation Act 1984*.

**“poultry”** includes hens, roosters, ducks, geese, peacocks, turkeys, bantam, squab, guineafowls and other edible *birds* over the age of 12 weeks.

**“prescribe”** means determine and give notice:

- by public notice, published in a newspaper generally circulating in the municipal district; and
- on Council’s website.

**“private land”** means any land which is not *Council land* nor land occupied or under the control or management of a public body.

**“procession”** includes a fun run and bicycle *event*.

**“public holiday”** means a *public holiday* within the meaning of the *Public Holidays Act 1993*, applying in the *municipal district*.

**“public place”** has the meaning ascribed to it by the *Summary Offences Act 1966*.

**“public protection barrier”** means an erection of precautions over the street alignment which may include a fence, barrier or screen enclosing a building, land and/or materials while *builders* are at work or *works* are being undertaken.

**“recreational vehicle”** means any mini-bike, trail-bike, motor bike, motor scooter, go-kart, monkey bike or other *vehicle* propelled by a motor which is ordinarily used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a person of limited mobility, and a motorised bicycle with a maximum capacity of 22 watt aggregate power.

**“recyclables”** means any substances or articles which *Council prescribes* to be recyclables for the purposes of this Local Law.

**“refuse facility”** means a receptacle capable of retaining all *builders’ refuse* within a *building site* and preventing removal of the *builder’s refuse* by unauthorised persons or by wind or rain.

**“Regulations”** mean the Road Safety Road Rules 2009.

"**reptile**" includes lizards, snakes and turtles.

"**Responsible Road Authority**", in relation to a road, means the road authority which has operational functions as determined in accordance with section 37 of the Road Management Act 2004.

"**reserve**" means any land which is owned, occupied or managed or controlled by Council and dedicated or used for outdoor cultural, environmental, sporting or recreational purposes.

"**road**" has the meaning ascribed to it by the Act, and means:

- a street;
- a right of way;
- any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958;
- a public road under the Road Management Act 2004;
- a public highway;
- a bridge or ford;
- a footpath, bicycle path or nature strip; and
- any culvert or kerbing or other land or *works* forming part of the road.

"**Rural Zone**" means a zone designated by *Council* as a Rural Zone under the Colac Planning Scheme.

"**Schedule**" means a schedule to this Local Law.

"**sealed container**" means a container sealed at the point of manufacture.

"**security bond**" means a sum of money, or another means of security acceptable to *Council*, the amount of which has been determined by *Council*, after taking account of:

- the nature of the building work;
- likely costs that would be incurred for repairs to Council infrastructure assets, if damage does occur to them, during or as a result of the building work;
- requirements which are commonly applied in comparable situations; and
- any relevant Commonwealth or State government legislation or policy directives.

"**sell**" includes

- *sell* by means of any machine or mechanical device;
- barter or exchange;
- agree to sell;
- offer or expose for sale; and
- keep or have in possession for sale
- and directing, causing or attempting any such acts or things.

"**Service Authority**" means an emergency service or a public body which *Council* has resolved is a *Service Authority* for the purposes of this Local Law.

"**single farming enterprise**" means a business of farming livestock run by one or more person as a single business.

"**stock crossing**" means a location on a road used regularly for the purpose of livestock crossing that road, and to which the requirements of the *Regulations*, and the *Guidelines*, apply.

"**stormwater system**" means a drainage system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.

"**temporary structure**" means a structure that is easily transportable, is able to be removed from site within 24 hours and does not have permanent footings.

"**Total Fire Ban Day**" means a day declared either totally or partially to be a fire ban day by the Country Fire Authority under the *Country Fire Authority Act 1958*.

"**toy vehicle**" means:

- a child's pedal car, scooter or tricycle or similar toy but only when it is being used by a child who is under the age of 12 years; and
- a wheeled device built to transport a person, propelled by human power or gravity and ordinarily used for recreation or play, including rollerblades, roller-skates, a skateboard or any similar wheeled device but excluding a golf buggy, pram, stroller, bicycle or wheelchair.

"**trade waste**" means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.

"**trade waste hopper**" means a purpose-built receptacle for the deposit of trade waste that is ordinarily emptied by mechanical means.

"**unsightly and/or dangerous land**" means land that:

- is being kept in a manner which is dangerous or likely to cause danger to life or property because of the materials or substances that are kept on the land; or
- is unsightly or detrimental to the general amenity of the neighbourhood because of rubbish, waste or other material giving the appearance of the land as one of neglect and out of character with other land in the vicinity; or
- has dismantled vehicles or vehicle parts visible from adjoining roadway or properties; or
- has any other matter deemed to be offensive or unsightly by an authorised officer of Council.

"**vacant private land**" means land on which no *dwelling* is erected.

"**vehicle**" includes any conveyance propelled or drawn by human, *animal*, mechanical, electrical or other power.

“**vehicle crossing**” means the constructed surface between the road pavement and the property boundary for *vehicle* access to the property, including any footpath section, crossing culverts, kerb and channel or layback.

“**weeds**” means a plant described as a locally emergent pest plant as *prescribed* by *Council*.

“**works**” includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

### 1.11 Notes in this Local Law

- (a) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PROPOSED

## PART 2 - USE OF COUNCIL LAND AND BUILDINGS

### Introduction

This Part contains provisions that define what is and what is not allowed on *Council land*. Generally, the provisions apply to what are known as *Council Buildings*. Specific provisions then extend to *reserves*.

### 2.1 What Council may do

(a) Council may:

- (1) restrict access to a Council Building or part of it;
- (2) close any Council Building or part of it to the public;
- (3) establish conditions of entry to a Council Building;
- (4) set and collect fees or charges for admission to or the hire or use of a Council Building or part of it;
- (5) set and collect fees or charges for the hire or use of any Council property in connection with a Council Building; and

authorise a person to do any one or more of the things described in clause 1- 5 (inclusive).

### 2.2 What a person cannot do

(a) A person must not, without the consent of Council or an Authorised Officer:

- (1) act contrary to any conditions of entry applicable to a Council Building;
- (2) enter a Council Building without paying any admission fee or charge applicable to that Council Building or the hire or use of the Council Building;  
or
- (3) hire or use any Council property in connection with a Council Building without first paying any fee or charge which is applicable.

### 2.3 Behaviour and Activities in Council Buildings

(a) A person must not:

- (1) commit any nuisance in a Council Building;
- (2) interfere with another person's use and enjoyment of a Council Building;
- (3) act in a manner which endangers any other person in a Council Building;
- (4) use indecent, insulting, offensive or abusive language in a Council Building;
- (5) behave in an indecent, offensive, insulting or riotous manner in a Council Building;

- (6) destroy, damage, interfere with or deface a Council Building;
- (7) destroy, damage, interfere with or deface anything located at, on or in a Council Building;
- (8) act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a Council Building;
- (9) deposit any litter in a Council Building, except in a receptacle provided for that purpose;
- (10) without the consent of Council or an Authorised Officer, sell any goods or services in a Council Building;
- (11) without the consent of Council or an Authorised Officer, erect, affix, place or leave any advertisement in a Council Building;
- (12) without the consent of Council or an Authorised Officer, erect, operate or cause to be erected or operated any amusement in a Council Building;
- (13) obstruct, hinder or interfere with any member of staff of Council in the performance of their duties in a Council Building;
- (14) act contrary to any lawful direction of an Authorised Officer or member of Council staff given in a Council Building, including, without limitation, a direction to leave the Council Building, whether or not a fee for admission to the Council Building has been paid;
- (15) use or interfere with any lifesaving or emergency device located in a Council Building, unless:
  - i. using the device in an emergency; or
  - ii. participating in an instruction approved by Council or an Authorised Officer;
- (16) organise any function or event in a Council Building without the consent of Council or an Authorised Officer;
- (17) bring any animal into, or allow any animal under their control to remain in, a Council Building without the consent of Council or an Authorised Officer, except for a guide dog being used by a visually impaired person, a hearing dog being used by a hearing impaired person or a dog being used to assist a person with limited mobility or healthy issues;
- (18) bring any vehicle or toy vehicle into a Council Building without the consent of Council or an Authorised Officer, except for:
  - (19) a pram or pusher being used by a child; or
  - (20) a wheelchair or motor scooter being used by a physically disabled person; or
- (21) bring into a Council Building any substance, liquid or powder which may:

- i. be dangerous or injurious to health;
- ii. have the potential to foul, pollute or soil any part of the Council Building; or
- iii. cause discomfort to any person.

**Penalty: A Maximum of 20 Penalty Units**

## **2.4 Access to Council Buildings**

(a) Council or an Authorised Officer may:

- (1) determine the hours when any Council Building will be open to the public;
- (2) restrict access to a Council Building or part of a Council Building;
- (3) close any Council Building or part of a Council Building to the public; and
- (4) charge fees for admission to or the use of a Council Building or part of a Council Building.

(b) Council may:

- (1) authorise any person to occupy a Council Building or restrict access to a Municipal Building; or
- (2) authorise any person to charge and collect fees for admission to or the use of a Council Building or part of a Council Building.
- (3) Council, an Authorised Officer or any person authorised by Council may from time to time establish
  - i. conditions applying to and fees or charges for admission to or the hire or use of a Council Building or part of a Council Building; and
  - ii. conditions applying to and fees or charges for the hire or use of any property of Council in connection with a Council Building.

(c) In exercising the powers conferred by clause 2.4 (a), Council, an Authorised Officer or any person authorised by Council may determine conditions applying to and fees and charges for admission to or the use of a Council Building:

- i. on multiple occasions;
- ii. over a period of time; or
- iii. on any other basis that they consider appropriate.

(d) A person must not, without the consent of Council or an Authorised Officer:

- i. enter a Council Building other than through an entrance provided for that purpose;

- ii. enter or remain in a Municipal Building during hours when the Municipal Building is not open to the public;
- iii. enter or remain in a Council Building without having paid any fee or charge imposed by Council, an Authorised Officer or any person authorised by Council for admission to the Council Building;
- iv. remain in a Council Building after being directed to leave by an Authorised Officer; or
- v. enter a Council Building, after having been directed to leave that Council Building by an Authorised Officer, until they are granted written permission to do so by *Council* or an *Authorised Officer*.

**Penalty: A Maximum of 20 Penalty Units**

## **2.5 Activities Prohibited in a Reserve.**

(a) In a reserve, a person must not:

- (1) enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering, unless that person is a player, official or competitor in or at a sporting match or gathering;
- (2) act in any manner so as to endanger any other person, cause any damage to any property or the environment or interfere with the quiet enjoyment of the reserve by any person;
- (3) use any children's playground equipment other than for the purpose for which it is provided;
- (4) fish in or swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain contrary to any sign erected in the reserve;
- (5) throw, place or allow to be thrown or placed any liquid, rubbish, dirt or other object, or substance into any wetland, lake, pond or fountain;
- (6) play, engage in or practise any game or sport, whether or not in accordance with a permit issued under this Local Law, in a manner that is:
  - i. dangerous to any other person in the reserve; or
  - ii. likely to interfere with the reasonable use or enjoyment of the *reserve* by any other person;
- (7) play or practise golf in a reserve to the danger or detriment of any person, animal or property;
- (8) ride any horse other than in an area and at a time designated by Council; or
- (9) drive, ride in or on or otherwise use any motor vehicle other than in an area designated by Council.

- (10) enter a reserve, or part of a reserve, contrary to signage prohibiting access to the reserve or part of the reserve.

**Penalty: A Maximum of 20 Penalty Units**

**2.6 Activities which may be permitted/allowed in a Reserve**

(a) In a reserve, a person must not, without a permit or the consent of an Authorised Officer:

- (1) fly or allow or be flown any aircraft (including any powered modelled aeroplane, drone but excluding a kite);
- (2) drive or ride a vehicle or animal in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the reserve by another person;
- (3) light a fire or allow any fire to remain alight except in:
  - i. a barbecue provided by Council; or
  - ii. a portable liquid petroleum gas barbecue; or
  - iii. a charcoal fuelled barbecue;
- (4) organise any competitive sport, game, event or activity other than a sport, game, event or activity played for family or social purposes;
- (5) camp or pitch, erect or occupy any camp, tent, caravan or temporary structure;
- (6) place or erect any fence, gate or any other object that impedes the public access and use of any Council land;
- (7) conduct or celebrate a wedding;
- (8) organise or hold any rally, procession, demonstration or any other public gathering;
- (9) make a collection of money;
- (10) destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
- (11) use an amplifier;
- (12) walk on any plot, bed, border or any other area set aside for vegetation;
- (13) operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);
- (14) construct or install a film set, or record for television or other media purposes any event or activity, if the construction, installation or recording (as the case may be) is for free or reward or commercial purposes (but

excluding wedding and general photography or recording and any media photography or recording for news production purposes);

(15) conduct any commercial activity; or

(16) drive any livestock.

**Penalty: A Maximum of 20 Penalty Units**

**Note:** Clauses 2.6 (a) (2), (3), (5), (6), (10) and (12), do not apply to a person employed or engaged by Council while acting in the course of their duties.

PROPOSED

## PART 3 - Consumption and Possession of Alcohol

### Introduction

This part deals with the consumption of *alcohol* and possession of *alcohol* other than in a *sealed container* in *public places*.

### 3.1 Consumption and Possession of Alcohol

(a) A person must not, without a *permit*:

- (1) Consume any alcohol;
- (2) Have in their possession or control any alcohol other than alcohol in a sealed container in a prescribed place, in or at a public place, road or in or on a vehicle which is or at a prescribed place; or

(b) Sub-clauses a.1 and a.2 does not apply in places which are:

- (1) Licensed premises within the meaning of Liquor Control Reform Act 1988;
- (2) An area in which the consumption of alcohol is permitted in accordance with a licence granted under the Liquor Control Reform Act 1988 or this Local Law; or
- (3) An area in which Council has issued a permit for the consumption of alcohol; or
- (4) On any day during the period specified and, in the area specified in a notice signed by the Council's Chief Executive Officer as being the area and period during which alcohol may be possessed and consumed.

(c) If an Authorised Officer believes on reasonable grounds that a person is contravening or has contravened sub clause 3.1(a), the Authorised Officer may direct the person to seal any container or dispose of the contents of any unsealed container.

(d) A person to who fails to comply with a direction of an Authorised Officer under sub Clause 3.1(c) is guilty of an offence.

(e) Council may prescribe any area to be a 'prescribed area' for the purpose of this Local Law including:

- i. On any day or between dates;
- ii. On any time or between times;
- iii. Or any other way.

**Note** *This clause enables the Council to issue a Local Law permit to licensed premises to extend their licensed use from adjoining premises onto footpaths and is authorised under the Colac Planning Scheme.*

## PART 4 - PROTECTION OF COUNCIL LAND AND ASSETS

### Introduction

This Part is designed to protect Council land and assets. Specifically, it regulates drains, *vehicle crossings*, standpipes, watercourses and *recreational vehicles*.

#### 4.1 Protection of drains

- (a) A person must not, without a permit, enter, destroy, damage or tap into any drain or culvert vested in Council or divert the contents of any such drain or culvert.

**Penalty: A Maximum of 20 Penalty Units**

- (b) A person must not deposit, or allow to be deposited, into any drain vested in *Council* any waste material other than stormwater.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.2 Legal Point of Discharge

- (a) An owner of land must ensure that any stormwater from that land is discharged to the legal point of discharge nominated by Council or an Authorised Officer.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.3 Interference with Watercourse

- (a) A person must not, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of Council.

- (b) A person must not, without a permit, divert the contents of any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of Council.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.4 Taking water from Council Controlled Standpipes

- (a) A person must not, without a permit, take water from a Council operated standpipe, other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a day of Total Fire Ban.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.5 Constructing Vehicle Crossings

- (a) A person must not, without a permit, construct, remove or relocate any temporary or permanent vehicle crossing(s).
- (b) Each owner and occupier of land must not, without a permit:
- (1) construct or allow to be constructed; or
  - (2) use or allow to be used;
- a second or subsequent *vehicle crossing* to service the land.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.6 Maintaining Vehicle Crossings

- (a) Each owner and occupier of land must maintain and keep in good condition any vehicle crossing(s) which services that land.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.7 Directing Vehicle Crossing Works

- (a) Council or an Authorised Officer may direct the owner or occupier of land to:
- (1) construct a temporary or permanent vehicle crossing;
  - (2) repair or reconstruct a vehicle crossing; or
  - (3) remove a vehicle crossing, and the reinstatement of any kerb, channel, footpath or other areas to the satisfaction of the Authorised Officer by the owner or occupier of any adjacent land at their cost.
- (b) The owner or occupier of land to whom a direction has been given under this clause must first apply to Council for a permit to do the thing which is directed.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.8 Damaging Council Land or Roads

- (a) A person must not, without a *permit*:
- (1) erect or construct, or allow to be erected or constructed, any thing on *Council land* or *Roads* that is inconsistent with an adopted Council Policy or adopted Precinct specific plan, or where mechanical plant is used for excavation;
  - (2) occupy or fence off any *Council land*;

- (3) construct an opening or gate in a fence on the boundary of *Council land* which is more than one (1) metre wide, excluding driveways from access roads;
- (4) plant any vegetation on *Council land* or *Roads* or actively assist such vegetation to grow that is inconsistent with an adopted Council Policy or adopted Precinct specific plan, or where mechanical plant is used for excavation;
- (5) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, (other than recognised weeds) any *Council land* or any road or thing on *Council land* or any road;
- (6) place, or allow to be placed, any thing on *Council land* or any road so as to endanger any other person or any property;
- (7) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a road and thereby become a hazard;
- (8) remove, or allow to be removed, any thing from Council land or any road which is affixed or attached to the Council land or road (as the case may be);
- (9) light a fire, or allow a fire to be lit, on any Council land or any road, except in a properly constructed barbecue; or
- (10) launch into any wetland, lake, pond or other watercourse on *Council land* any watercraft excluding canoes kayaks and surf paddles, other than from a launching facility designated for such purpose.

**Penalty: A Maximum of 20 Penalty Units**

**Note:** Clauses (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(8) and (a)(9) do not apply to a person employed or engaged by Council while acting in the course of their duties.

#### **4.9 Nature Strips**

- (a) An owner or occupier of land that is not in a Rural Zone must ensure that the nature strip:
  - (1) is maintained in a neat and tidy condition; and
  - (2) does not contain grass, stubble, scrub or undergrowth exceeding 10 centimetres in height.

An owner or occupier of land must not alter, or allow to be altered or remain altered any nature strip without a permit.

#### **4.10 Recreational Vehicles on Council Reserves**

- (a) A person must not:
  - (1) drive, ride on or otherwise use; or
  - (2) allow a person under their care or control to drive, ride on or otherwise use

a *recreational vehicle* on any *reserve* unless that *reserve* has been designated for that purpose or otherwise authorised by *Council*.

**Penalty: A Maximum of 20 Penalty Units**

PROPOSED

## PART 5 – BUILDING SITES

### Introduction

This part contains provisions that control construction movements and construction waste on *building site(s)*. It also handles issues around *building sites* such as mud and debris on roads, stormwater runoff, and the preservation of some *Council* assets.

### 5.1 Building Work or Works

- (a) During building work the person in charge must ensure that the building work is carried out such:
- (a) As not to emit excessive dust into the air and onto land proximate to the land on which the building work is carried out; and
- (b) That it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the building work is carried out.

**Penalty: A Maximum of 20 Penalty Units**

### 5.2 Fencing of Building Sites

- (a) Prior to the commencement of any building work on land that is in a residential zone, commercial zone, or industrial zone, and less than 1,500m<sup>2</sup> in size, the person in charge must ensure that a site fence is erected on each individual site that:
- (1) Complies with AS4687-2007; and
  - (2) Is not less than 1,500mm in height and not greater than 2,000mm in height; and
  - (3) Will prevent windblown trade waste and litter from being transported from the site; and
  - (4) Will not have more than one access opening to the site which is;
    - (i) Not greater than 2,800mm in width; and
    - (ii) Fitted with gates that are the same height as the associated fence that will prevent windblown refuse and litter being transported from the site; and
    - (iii) Located to correspond with the location of the temporary vehicle crossing for the building site; and
    - (iv) Kept closed at all times when works are not in progress.
- (b) If the person in charge has multiple and adjoining sites where building work is being undertaken simultaneously, the site fence may enclose all of those sites, and one access opening is allowed per *allotment*.

- (c) No part of the site fence, including support feet, shall protrude in or any land other than the building site on which the building work occurring.
- (d) Each section of the site fence is to be maintained as per AS4697-2007 and must remain erected until the completion of the building work.

**Penalty: A Maximum of 20 Penalty Units**

### **5.3 Storm Water Protection at Building Sites**

- (a) Where any building work is being carried out on any land, the person in charge must ensure that the site is developed and managed to minimise the risk of storm water pollution through the contamination of run-off by chemicals, sediments, animal waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:
  - (1) Minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the storm water system; and
  - (2) Prevent building clean-up, wash-down or other wastes being discharged off-site or allowed to enter the storm water system

**Penalty: A Maximum of 20 Penalty Units**

### **5.4 Controlling Trade Waste and Building materials at Building Sites**

- (a) Prior to the commencement of building work and during any building work, the person in charge must:
  - (1) provide a refuse facility for depositing of trade waste and litter, and which must:
    - i. Be maintained in working order by having a functioning lid that effectively contains all the trade waste and litter; and
    - ii. be not less than 1.5 cubic metres in volume; and
  - (2) Ensure trade waste and litter is efficiently and effectively deposited into the refuse facility; and
  - (3) Keep the refuse facility in place until the building work is complete, except when it is necessary to remove the refuse facility for the purpose of emptying it; and
  - (4) Ensure all aspects of the refuse facility are within the building site, and
  - (5) Ensure all building materials are contained within the building site; and
  - (6) Ensure that all lightweight materials on the building site are secured at all times so that any materials cannot become airborne; and

- (7) Ensure the refuse facility is removed from the building site within seven (7) days of completion of the building work or issue of an occupancy permit or certificate of final inspection, whichever occurs last.

**Penalty: A Maximum of 20 Penalty Units**

### 5.5 Controlling Mud, Dirt and Debris from Building Sites

- (a) Prior to the commencement of *building work* and during any *building work*, the person in charge must ensure unsecured mud, dirt and debris is not carried from a *building site* by *vehicles* or persons.

**Penalty: A Maximum of 20 Penalty Units**

### 5.6 Managing a Building or Subdivision Site

- (a) Prior to the commencement of any building work the person in charge must notify Council with the details and contact details of the person in charge.
- (b) If prior to the completion of the building work, there is a change of person in charge, the new person in charge must, within (7) days of that change, notify Council with the details and contact details of the new person in charge.
- (c) Prior to the commencement of any subdivision work the person in charge must erect a sign at each access gate to the subdivision which:
- (1) Is at least 800mm in height and 1,200mm in width; and
  - (2) Is securely placed in such a location that makes it clearly visible and legible from the road; and
  - (3) Contains the name, postal address and a business contact telephone number for the person in charge of the subdivision *works* which can be reached between 9am and 5pm on working days; and
  - (4) The sign must be displayed until completion of the subdivision work.

**Penalty: A Maximum of 20 Penalty Units**

### 5.7 Inspection of Building Sites

- (a) An Authorised Officer may inspect a building or subdivision site at any reasonable time.
- (b) If as a result of an inspection of a building or subdivision site, an *Authorised Officer* identifies any failure to comply with a Local Law, the *Authorised Officer* may verbally direct the person in charge to correct the breach within a specified time, and must provide the person in charge with written confirmation of the verbal direction and details of the breach, either at the time of the inspection or within a reasonable timeframe.

## 5.8 Controlling Asset Protection during Building Works or Work

(a) The:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) appointed agent;
- (4) driver of any *vehicle* involved in placing or removing a *refuse facility* on land;  
or
- (5) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition, must, in respect of the *building work* or *works*, ensure that:
  - i. entry takes place only across a temporary *vehicle* crossing unless otherwise allowed by *Council* and in accordance with that permission; and
  - ii. no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## 5.9 Asset Protection and Building Work

(a) Regardless of whether a building permit or planning permit has been issued, the:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) appointed agent; or
- (4) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition, must at least seven (7) days before commencing *works* on the land:
  - i. obtain an Asset Protection Permit;
  - ii. advise *Council* in writing of any damage that exists to any *Council infrastructure assets*; and
  - iii. pay, or lodge, a *security bond* to, or with, the *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## 5.10 Controlling Building Sites

(a) Council or an Authorised Officer may inspect a building site at any reasonable time.

(b) If Council or an Authorised Officer identifies any damage which appears to result from non-compliance with this Local Law, an Authorised Officer:

- (1) may direct the responsible party to reinstate the damage within a specified time; and
- (2) must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.

**Penalty: A Maximum of 20 Penalty Units**

(c) Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out *building work* on the land or *appointed agent* must:

- (1) provide a refuse facility for the purpose of disposal of builder's refuse to the satisfaction of Council or an Authorised Officer;
- (2) place the refuse facility on the land and keep it in place (except for such periods as are necessary to empty the refuse facility) for the construction period;
- (3) not place the refuse facility on any Council land or road without a permit; and
- (4) empty the refuse facility whenever full, and, if necessary, provide a replacement refuse facility during the emptying process.

**Penalty: A Maximum of 20 Penalty Units**

## PART 6 - CAMPING

### Introduction

In this part, the provisions regulate the *camping* on privately owned land, vacant land and *camping* on *Council land* or in *public places*.

### 6.1 Camping General

(a) Prior to the commencement of any *camping*, a person must obtain a *permit* to camp from *Council*, if required to do so by this Local Law, unless the land is a:

- (1) Registered caravan park or camping ground; or
- (2) Camping area approved by Council.

**Penalty: A Maximum of 20 Penalty Units**

(b) Camping must not be a nuisance or unreasonably interfere with the enjoyment to any person of land proximate to the land on which the camping is carried out.

**Penalty: A Maximum of 20 Penalty Units**

### 6.2 Camping on Council Land or in Public Places

(a) A person must not camp on *Council land*, a *public place* or road *reserve* unless a *camping permit* has been issued by Council and is in force under this Local Law.

(b) Clause 6.2 (a) does not apply to:

- (1) Land where camping is authorised under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020; or
- (2) *Camping* for less than twenty four (24) hours in an area where Council has determined that overnight *camping* is permitted.

**Penalty: A Maximum of 20 Penalty Units**

### 6.3 Camping on Privately Owned Land where a Dwelling is Erected

(a) A person must not camp on private land, unless a camping permit has been issued by Council and is in force under this Local Law.

(b) Clause 6.1 does not apply if the owner of the land has authorised the camping, and the camping is:

- (1) for not more than a total of six (6) months in any financial year; or
- (2) not occurring within a distance of one (1) metre from the side or rear boundaries of the land, and

- (3) Not occurring within 30 metres of a waterway.

**Penalty: A Maximum of 20 Penalty Units**

**6.4 Camping on Vacant Private Land**

- (a) The *owner* or occupier of land which is vacant must not without a *permit*, occupy or allow any other person to occupy a *caravan*, tent, tiny house/movable *dwelling* or motor home on that land unless the following conditions are met:

- (1) The occupation does not exceed four (4) consecutive weeks;
- (2) The occupation is not more than a total of three (3) months in any calendar year;
- (3) No rent, licence fee or charge is paid by any person in respect of the occupation;
- (4) The caravan, tent, tiny house/movable dwelling or motor home is not located within:
  - i. 1 metre of any boundary of the land; or
  - ii. 30 metres of a waterway.
- (5) The caravan, tent, tiny house, /movable dwelling or motor home is vacated on declared days of total fire ban;
- (6) Has the adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.

**Penalty: A Maximum of 20 Penalty Units**

**6.5 Exemption**

- (a) *Council* or an *Authorised Officer* may from time to time exempt any;

- (1) Person;
- (2) Class of person.

From the requirement to obtain a *permit* under clause 6.2 to 6.4 and from the application of clause 6.1, 6.2, 6.3 and 6.4.

## PART 7 - MUNICIPAL AMENITY

### Introduction

This Part is concerned with the visual amenity of the *municipal district*. Its provisions control a number of activities which, if left uncontrolled, have the potential to detract from the natural environment.

#### 7.1 Dangerous land or Detriment to General Amenity

- (a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not allow that land to be kept in *dangerous and/or unsightly condition*.

**Penalty: A Maximum of 20 Penalty Units**

#### 7.2 Prohibition on Graffiti

- (a) Unless permitted under a Planning Scheme applicable to the land, each *owner* or *occupier* of land must not allow any *graffiti* to remain on any building, wall, fence or other structure erected on their land.

**Penalty: A Maximum of 20 Penalty Units**

#### 7.3 Obstruction on Land - Vegetation and other Objects

- (a) A tree or plant, fencing or a sign or other similar object must not be planted or located on a person's property so that it obstructs or interferes with pedestrian or vehicular traffic because it:

- (1) Overhangs a property boundary onto a footpath or other part of the road used by pedestrians limiting safe access or likely to cause injury or damage; or
- (2) Extends over any part of the road or on the boundary of a road so that it:
- (3) Obstructs the view between vehicles at an intersection; or
  - i. Obstructs the view between *vehicles* and pedestrians; or
  - ii. Obscures a traffic control item from an approaching *vehicle(s)* or pedestrian(s); or
  - iii. Obscures street lighting; or
- (4) Constitutes a danger to vehicles or pedestrians or compromises the safe and convenient use of the road.

**Penalty: A Maximum of 20 Penalty Units**

## 7.4 Overhanging Vegetation

- (a) Notwithstanding clause 7.3, an *owner* or *occupier* of any land must not allow a tree, shrub, hedge, or other vegetation on that land to overhang a *road* at a height of less than 2.4 metres from the surface of the *road*.

**Penalty: A Maximum of 20 Penalty Units**

## 7.5 Vegetation on Road and Council Owned/Managed Land

- (a) A person:

- (1) must not, without a permit, plant or allow to be planted any seedling or vegetation on a road;
- (2) who is the *owner* or *occupier* of land adjoining land owned or managed by Council, must ensure that environmental weeds as listed in the Colac Otway Shire Weed Management Strategy are contained to their property and not encroaching on Council land.

**Penalty: A Maximum of 20 Penalty Units**

## 7.6 Numbering of Allotments

- (a) Council or an Authorised Officer may from time to time allot a number to an allotment and may from time to time allot a different number to an allotment or otherwise change the numbering.
- (b) The owner or occupier of an allotment to which a number has been allotted by Council or an Authorised Officer must mark the allotment with the number:
- (1) in a sufficient size; and
  - (2) in such a position, clear of vegetation, and other obstructions

so as to be clearly visible and legible from the *road* on which the *allotment* has its *frontage*.

**Penalty: A Maximum of 20 Penalty Units**

- (c) The *owner* or *occupier* of an *allotment* must ensure that all numbers marking the *allotment* are:
- (1) made of durable materials;
  - (2) kept in a good state of repair; and
  - (3) renewed as often as may be necessary.

**Penalty: A Maximum of 20 Penalty Units**

## 7.7 Recreational Vehicles on Private Land

(a) A person:

- (1) must not, drive, ride on or otherwise use any *recreational vehicle on private land* in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any person of land proximate to the land on which the *recreational vehicle* is being used; and
- (2) who is the *occupier* of any *private land* must not allow a person to drive, ride on or otherwise use any *recreational vehicle* on that land in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any person of land proximate to the land on which the *recreational vehicle* is being used.

**Penalty: A Maximum of 20 Penalty Units**

## 7.8 Shopping Trolleys

(a) The *owner* of any shopping trolley that is made available to members of the public must ensure that the shopping trolley legibly identifies the *owner's* business name and trading address.

**Penalty: A Maximum of 20 Penalty Units**

(b) A person must not leave a shopping trolley on:

- (1) a road;
- (2) Council land except in an area designated by Council for the leaving of shopping trolleys; or
- (3) any vacant land.

**Penalty: A Maximum of 20 Penalty Units**

## PART 8- FIRE HAZARDS

### Introduction

The purpose of this section is to set out the requirements to manage, control and regulate activities and uses of land that may be dangerous, cause nuisance or damage to others and/or the environment, and could affect the health and safety or amenity of others.

### 8.1 Fire Hazards

(a) An *owner* or *occupier* of land must not allow the land to contain any thing which constitutes or is likely to constitute a *fire hazard*, and ensure that:

(1) All necessary steps are taken to;

- i. Prevent fire on; and
- ii. Minimise the possibility of spread of fire from those premises; and

(2) The premises are kept free of material or substances likely to assist the spread of fire.

**Note:** For the purpose of this clause “material or substances” includes undergrowth, scrub, bracken ferns, weeds, stubble and grass.

**Penalty: A Maximum of 20 Penalty Units**

### 8.2 Open Air Fires and Incinerators

(a) A person must not without a permit, light a fire in the open air or in an incinerator on any land in a Designated Area on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.

(b) The open air fire and the matter being burnt must occupy no more than 1 cubic metre of land and space, and must be dried vegetation only.

(c) A person must not light a fire during a CFA declared fire danger period.

(d) A person must not, without a permit, light a fire in the open air where the open air fire will be lit or used on any Council land or public place.

(e) The requirement to obtain a permit does not apply to:

(1) a person lighting a barbeque or similar appliance for cooking food; or

(2) a constructed fireplace, recreational fire pit or brazier; or

(3) a fire that is authorised or directed to be lit under any other legislation.

(f) A person must not light a fire in the open air or an incinerator to burn any material or substance that could cause a nuisance to any other person or could harm or damage a person's health.

- (g) The Designated Area referred to in sub-clause 8.2(a) will be the *Designated Township Area* unless Council resolves to establish an alternative Designated Area.

**Penalty: A Maximum of 20 Penalty Units**

### 8.3 Fire Danger Days

- (a) Nothing in clause 8.2 authorises a person to light a fire, or allow a fire to be lit or remain alight:

- (1) during the Declared *Fire Danger Period*; or
- (2) on a day where the air quality category is poor, very poor or extremely poor as described by the Environment Protection Authority.

**Penalty: A Maximum of 20 Penalty Units**

### 8.4 Nuisances

- (a) A person must not burn or cause or allow to be burned any substance, either in the open air or within a structure if the burning of the substance is likely to:

- (1) cause a nuisance;
- (2) be dangerous to the health of any person; or
- (3) be offensive to any person.

**Penalty: A Maximum of 20 Penalty Units**

- (b) A person must not burn, or cause, or allow to be burned any:

- (1) rubber or plastic substance;
- (2) waste petroleum oil or material containing waste petroleum oil;
- (3) paint or receptacle which contains or has contained paint;
- (4) manufactured chemical or chemically treated material;
- (5) pressured container;
- (6) textile fabric; or
- (7) food waste.

**Penalty: A Maximum of 20 Penalty Units**

## 8.5 Extinguishing Fires

(a) A person who has lit or allowed a fire to be lit or remain alight, or who has burned or caused or allowed to be burned any substance, contrary to clause 8.1 or 8.2 must extinguish the fire or burning substance immediately on being directed to do so by:

- (1) an Authorised Officer;
- (2) a member of the Victoria Police; or
- (3) an Officer of the Country Fire Authority; or
- (4) an Officer in charge of a Country Fire Authority Brigade.

**Penalty: A Maximum of 20 Penalty Units**

(b) Any person described in clause 8.5(a)(1), 8.5(a)(2), 8.5(a)(3) or 8.5(a)(4) may enter or remain on any land and extinguish any fire or burning substance if:

- (1) the person to whom a direction has been given under clause 8.5 fails immediately to extinguish the fire or burning substance; or
- (2) a fire or an *incinerator* is apparently unattended.

**Penalty: A Maximum of 20 Penalty Units**

## 8.6 Permissible Burning

(a) Notwithstanding anything else contained in this Local Law:

- (1) an Authorised Officer; or
- (2) an officer of the Country Fire Authority; or
- (3) an Officer in charge of a Country Fire Authority Brigade,

may authorise the burning of a *fire hazard* on any land if it is impracticable or dangerous to remove, slash or cut the *fire hazard*.

**Penalty: A Maximum of 20 Penalty Units**

## 8.7 Discharging Into Air

(a) An owner or occupier of land must not cause or allow any chimney, flue or other discharge outlet on that land to discharge any:

- (1) dust;
- (2) grit;

(3) ashes; or

(4) odours;

to such an extent that the discharged material is dangerous to health or a nuisance to any other person.

**Penalty: A Maximum of 20 Penalty Units**

PROPOSED

## PART 9- ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

### Introduction

In this Part, the emphasis is on things which interfere with the use and enjoyment of *roads* and *Council land*.

#### 9.1 Spoil on Roads

(a) A person must not:

- (1) drive; or
- (2) allow or cause to be driven

a *vehicle* on a *road* if the *vehicle* is being or has been used directly or indirectly in:

- i. the filling or excavation of any land; or
- ii. building work,

unless the exterior of the *vehicle* is free from soil, earth and clay.

**Penalty: A Maximum of 20 Penalty Units**

#### 9.2 Repair of Vehicles

(a) A person must not dismantle, paint, carryout maintenance or repair a vehicle on Council land or road except for an emergency or where it is necessary to enable the vehicle to be removed.

**Penalty: A Maximum of 20 Penalty Units**

#### 9.3 Sale of Vehicles

(a) A person must not, without a permit, park or cause a vehicle to be parked or left standing on any road or other public place for the purpose of exposing or displaying that vehicle for sale.

(b) A person must not, without a *permit*, park any *vehicle* which has advertising painted or stuck directly onto it, or in any way attached to the body of the *vehicle*, with the intention of advertising by directing a person to a business, on *Council land*, including a *road*, or in a *public place*.

**Penalty: A Maximum of 20 Penalty Units**

#### 9.4 Abandoned Vehicles

(a) A person must not leave standing on any road or Council land a motor vehicle:

- (1) which is unregistered; or
- (2) which has been left standing for at least seven (7) consecutive days, and has, in the opinion of an Authorised Officer, been abandoned.

**Penalty: A Maximum of 20 Penalty Units**

#### **9.5 Storage of Caravans and Trailers in Public Places**

- (a) A person must not allow any caravan or trailer that is currently registered or having a permit from Department of Transport and Planning, or any other relevant authorities, to be left standing continuously in a public place or places for a period in excess of fourteen (14) consecutive days.
- (b) The caravan or trailer may not be removed to another public place to immediately commence a further fourteen (14) day period.

**Penalty: A Maximum of 20 Penalty Units**

#### **9.6 Public Events**

- (a) A person must not, without a permit, hold an *event* in public spaces or on roads owned or managed by Council.

**Penalty: 4 Penalty Units on the spot fine and a Maximum of 20 Penalty Units**

## PART 10 - SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS

### Introduction

This Part is concerned with commercial activities on *Council land* and *roads*. It establishes a *permit* system to regulate these commercial activities.

### 10.1 Commercial Activities on Council Land

(a) A person must not, without a permit, conduct commercial activities on a footpath, road reserve or Council land where that person proposes to use a footpath, road reserve, Council land or public place for:

- (1) Outdoor eating;
- (2) Displaying goods or services for sale;
- (3) Placing signs and/or advertising goods and services for sale; or
- (4) Placement of signage on a *vehicle*.

(b) A person must not, without a permit:

- (1) erect a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or
- (2) trade from *Council land* or a *road* where trading is to be done from a *vehicle*, stall or any other *temporary structure* and irrespective of whether trading is on a permanent or casual basis.

**Penalty: A Maximum of 20 Penalty Units**

### 10.2 Collections, Subscriptions and Raffles

(a) A person must not, without a permit, or permission from an Authorised Officer, solicit to collect:

- (1) on a *road*;
- (2) on Council land; or
- (3) from any *dwelling*,

any gifts, donations, or subscriptions for any purpose or cause nor authorise another person to do so.

**Penalty: A Maximum of 20 Penalty Units**

(b) Nothing in clause 10.2(a) applies to any person who is acting under or with the authority of an Act or Regulation.

### 10.3 Unsolicited Material

- (a) A person must not, without a permit or approval from an authorised officer, distribute any handbills, placecards, notices, advertisements, books, pamphlets, goods, gifts or samples to any person on any road or Council land.
- (b) Nothing in clause 10.3 (a) applies to any person who is acting under or with the authority of an Act or Regulation.

**Penalty: A Maximum of 20 Penalty Units**

### 10.4 Busking

- (a) A person must not, without a permit, busk on any:

- (1) road; or
- (2) Council land; or
- (3) A public place

with the object, or apparent object, of collecting money.

**Penalty: A Maximum of 20 Penalty Units**

### 10.5 Spruiking

- (a) A person must not, without a permit, spruik on any:

- (1) road; or
- (2) Council land,

with the object, or apparent object, of attracting custom.

**Penalty: A Maximum of 20 Penalty Units**

### 10.6 Pavement Art

- (a) A person must not, without a *permit*, paint or draw on any *Council land*, including a *road* or any property belonging to *Council*, for the purpose of public entertainment, performance or the collection of money.

**Penalty: A Maximum of 20 Penalty Units**

## PART 11 PART 11 - ANIMALS AND LIVESTOCK

### Introduction

In this Part, the provisions regulate the *movement of livestock* and keeping of *animals, birds, reptiles* and bees.

### Application of this Part

(a) This Part does not apply to any land:

- (1) on which a pet shop is located; or
- (2) on which an animal hospital or veterinary practice is located; or
- (3) other like facility that is subject to the provisions of a code of practice or planning scheme,

if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

### 11.1 Keeping of Animals, Birds, Reptiles and Bees Generally

(a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not keep or allow to be kept on that land, and any other person must not keep or allow to be kept on the land, any *animal, bird, reptile* or bee in such a manner as to:

- (1) be offensive; or
- (2) be dangerous; or
- (3) be injurious to health; or
- (4) cause a nuisance.

**Penalty: A Maximum of 20 Penalty Units**

## 11.2 Number of Animals

(a) An owner or occupier of land must not without a permit:

(1) keep or allow to be kept any more in number for each type of *animal* as is set out in the following table:

	<b><i>Animal</i></b>	<b><i>Property Size up to 0.25 (ha)</i></b>	<b><i>Property Size 0.25 (ha) to 1(ha)</i></b>	<b><i>Property Size 1 (ha) and above</i></b>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5
c	Poultry	10	20	No <i>Permit</i> Required
d	Roosters	Permit Required	Permit Required	No Permit Required
e	Pigeons	10	20	No Permit Required
f	Sheep or Goats	Permit Required	8	No Permit Required
g	<i>Cattle</i> /Horses and other large animals	Permit Required	4	No Permit Required
h	Pigs	Permit Required	Permit Required	No permit required
i	Reptiles	Subject to the issuing of a license by the Department of Energy, Environment and Climate Action (DEECA) or relevant authority		
j	Bees	(2) Subject to hives being licensed with Agriculture Victoria and complying with the Apiary Code of Practice.		

(b) For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a *permit* under clause 11.2 (a)(1), the progeny of any *animal* will, for 12 weeks after the birth be deemed not to be an *animal*.

(c) In *relation* to the keeping of *Poultry* (including Roosters) and Pigeons a *permit* will not be required by *owners* who are current financial members of a relevant Club or Organisation and abide with the relevant code of practice.

**Penalty: A Maximum of 20 Penalty Units**

### 11.3 Animal Control (Housing of Animals)

- (a) An *owner* or *occupier* of land must ensure that any *animal* and *birds* on that land are kept in a secure shelter or enclosure; or confined to the land unless they are under the *effective control* of a person.
- (b) The *owner* or person in charge of an *animal* must, whilst on *Council land* or a *road* or in a *public place*, have *effective control* of that *animal*.

**Penalty: A Maximum of 20 Penalty Units**

### 11.4 Control of Cats

- (a) The *owner* of any cat must confine the cat to the *owner's* property either within the *dwelling* or within another escape-proof structure between the hours of sunset and sunrise.

**Penalty: A Maximum of 20 Penalty Units**

### 11.5 Animal Excrement

- (a) The *owner* or person in charge of an *animal* must:
- (1) Whilst on *Council land* or a *road* or in a *public place*, have in their possession a bag or container which can be used for the collection of that *animal's* excrement, and immediately collect and remove excrement.

**Penalty: A Maximum of 20 Penalty Units**

### 11.6 Feeding of Wild Animals

- (a) If the feeding of an uncaged *bird* and/or any *animal* by a person is causing a nuisance, damage to property, or contributing to health issues an *Authorised Officer* may direct the person to cease feeding the *bird* and/or *animal*.

**Penalty: A Maximum of 20 Penalty Units**

### 11.7 Shelters for Animals

- (a) The *owner* or *occupier* of a property must ensure that any structure on that property used for housing any *livestock*, small *bird*, large *bird*, rodent or *reptile* or any other *animal* and the area within three (3) metres of such structure is maintained:

- (1) In a clean, inoffensive and sanitary condition; and
- (2) So, it does not cause any nuisance.

- (b) All *animal* shelters must be maintained so that:

- (1) Manure and other waste do not remain on the land;
- (2) Food is kept in fly and vermin proof container;
- (3) Adequate drainage of the land is provided;
- (4) Grass, *weeds*, refuse, rubbish and other material does not build up within three (3) metres of the *animal* shelter; and
- (5) The *animal* shelter and the land are kept in a clean and sanitary condition.

**Penalty: A Maximum of 20 Penalty Units**

### 11.8 Adequate fencing for livestock

- (a) An *owner* or *occupier* of land on which *livestock* are kept must ensure that the fencing of any cattle grids relating to, that land is or are adequate to prevent the escape of that *livestock*.
- (b) Where an *Authorised Officer* gives a *Notice to Comply* to an *owner*, or *occupier* of land who appears to be in breach of clause 11.8(a), the *Authorised Officer* may direct that person to immediately remove the *livestock*, or install, repair, replace or modify the fencing or *cattle* grids, including through the installation or repair of gates.

**Penalty: A Maximum of 20 Penalty Units**

### 11.9 Droving of Livestock

- (a) A person must not, without a *permit*, drove or graze *livestock* on a *road* or *Council land* in the *municipal district*.

### 11.10 Droving of Livestock within the Municipal District

- (a) A person must not move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property without a *permit*.

**Penalty: A Maximum of 20 Penalty Units**

### 11.11 Bees and Wasps

- (a) An *owner* or *occupier* of *private land* on which bees are kept must comply with the Apiary Code of Practice.
- (b) An *owner* or *occupier* of *private land* on which bees are kept must ensure that the bees are not a nuisance.

- (c) An *owner* or *occupier* of land must upon becoming aware of the existence of a non-native wasp nest or bee nest on the land or at the direction of an *Authorised Officer* must take steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.

**Penalty: A Maximum of 20 Penalty Units**

PROPOSED

## PART 12 - WASTE MANAGEMENT

### Introduction

This Part is concerned with the domestic kerbside collection and disposal of waste. Among other things, it regulates the collection and disposal of *household waste*, *organic waste*, *recyclables*, *glass* and hard waste.

### 12.1 Disposal of Household Waste, Recyclables and Organic Waste and Glass

- (a) To use the domestic kerbside collection service provided by Council, the occupier of any premises:
- (1) must use only Council-supplied mobile bins for household waste, comingled recycling and organic bin, glass bin and/or Council approved bins for organic waste.
  - (2) must deposit household waste only in the mobile garbage bin (MGB – Red Lidded), recyclables only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile organic waste bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);
  - (3) must, if directed by Council to do so, remove contaminated material from mobile bin/s;
  - (4) must, if directed by Council to do so, dispose of all contents of mobile bins containing contaminated material;
  - (5) must leave the mobile bins out for collection on days designated by Council from time to time as collection days, or such other days as may be directed by an Authorised Officer;
  - (6) must place the mobile bins out for collection no later than the night before the day of collection or such other time as designated by Council from time to time;
  - (7) must not leave the mobile bins out more than one day before or one day after a designated collection day;
  - (8) must place all mobile bins out for collection in a manner specified in any written advice made available to the occupier by Council.
  - (9) must ensure that any mobile bin (including contents) placed for collection does not exceed 80 kg;
  - (10) must maintain the mobile bins in a clean and sanitary condition;
  - (11) must ensure that the area where the mobile bins are kept on the property is kept clean and in a sanitary condition;
  - (12) must ensure that the lid of the mobile bins are closed other than when material is being deposited in them;

- (13) must not cause damage to mobile bins;
- (14) must ensure that the mobile bins are not overfilled thus preventing the lids from being completely closed down;
- (15) must not place any material immediately adjacent to the mobile bin for collection; and
- (16) must ensure that the mobile bins provided by Council are not removed from the premises except for collection of material in accordance with this Local Law.

**Penalty: A Maximum of 20 Penalty Units**

**12.2 Prohibited Waste**

- (a) A person must not place, or cause or allow to be placed, in any mobile bin provided by Council any:
- (1) Trade Waste;
  - (2) Medical or Infectious Waste;
  - (3) Slops or Liquid Waste;
  - (4) Human or *Animal* Waste;
  - (5) Night soil or *animal* excrement (except that disposable nappies or *animal* excrement may be placed or caused to be placed in a refuse receptacle if they are wrapped);
  - (6) Soil, dirt, dust or other matter from any vacuum cleaner sweepings, shavings, ashes, hair or other similar or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
  - (7) Sharps, including hypodermic needles, blades or scalpels;
  - (8) Sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
  - (9) Ash or ashes (unless such ash or ashes have been effectively dampened so as to be non-combustible);
  - (10) Oils, solvents flammable liquids or paint (other than paint residue contained in a closed container);
  - (11) Bricks, concrete, masonry, engine blocks or *vehicle* parts (whether or not in pieces); or
  - (12) Any other waste *prescribed by Council*.

- (13) Must, if directed by *Council* to do so, remove *contaminated material* from mobile bin/s;
- (14) Must, if directed by *Council* to do so, dispose of all contents of mobile bins containing *contaminated material*.

**Penalty: A Maximum of 20 Penalty Units**

### 12.3 Placement of Mobile Bins

(a) To use the recycling and the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must place the mobile bins:

- (1) At the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
- (2) Immediately behind the kerb of the street *frontage* of the premises;
- (3) On the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
- (4) At a suitable location within or outside the premises, with an *Authorised Officer's* approval, where restrictions on space or access do not allow placement in accordance with clauses 12.3(a)(1), 12.3(a)(2) and 12.3(a)(3);
- (5) At a suitable location within the premises, where an *Authorised Officer* certifies that special circumstances or hardship exists;
- (6) With the wheels facing the premises;
- (7) At least 50cm away from any:
  - i. Mobile Bin;
  - ii. Power Pole;
  - iii. Street Furniture;
  - iv. Tree; or
  - v. Other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin.

### 12.4 Hard Waste

- (a) The *occupier* of every premises to which a hard waste collection service is provided, may place out for collection accepted hard waste, and must do so in a manner set out in a notice published by *Council* as specified in any written advice provided to the *occupier* by *Council* or in a newspaper generally circulating in the *municipal district*.
- (b) The *occupier* of every premises to which a hard waste collection service is provided by *Council*:

- (1) may deposit hard waste on the nature strip at the front of the premises, for collection on days designated by Council from time to time as collection days;
- (2) must not deposit items or material on the nature strip other than hard waste;
- (3) must not leave the hard waste on the nature strip for more than six days before a collection day;
- (4) must place the hard waste and arrange it in a manner, as specified in any written advice provided to the occupier by Council, in front of the premises that allows collection by a collection vehicle; and
- (5) must remove items or material so placed, which is not collected within one day after the collection day.

**Penalty: A Maximum of 20 Penalty Unit**

### **12.5 Disposal of disused refrigerators and other compartments**

- (a) A person must not place or leave a disused refrigerator or freezer, trunk, chest or any similar article having a compartment with a capacity of 0.04 cubic metres or more on any rubbish tip *road* or *Council land, public place*, or unfenced vacant land without first:
  - i. removing every door and lid; and
  - ii. remove every lock, catch and hinge attached to a door or lid; or
  - iii. otherwise rendering every door and lid incapable of being fastened.
- (b) Nothing in the clause above is to be taken as allowing domestic *household waste*, recyclables, *organic waste* or hard waste to be taken outside a premises and deposited on a *road* other than in accordance with this Local Law.

**Penalty: A Maximum of 20 Penalty Units**

### **12.6 Restriction on Use of Public Waste and Recycle Bins**

- (a) The owner or occupier of premises must not place or deposit any household waste, recyclables, organic waste, glass or other waste material of any kind which has been generated in or from that premises in a public waste bin.
- (b) A person must not deposit into a public waste bin any uncooked meat, uncooked fish heads or entrails or material prescribed by Council other than in a public waste bin designated for such waste.
- (c) A person may only place animal excreta in a public waste bin if it is wrapped in impermeable material.

**Penalty: A Maximum of 20 Penalty Units**

## **12.7 Interference with Household, Recyclables, Glass, Organic Waste or Hard Waste**

- (a) Except if authorised, a person must not remove, add to or interfere with any household waste, recyclables, glass, organic waste or hard waste or mobile bin left out by any other person on a *road* or other *Council land* for collection by *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## **12.8 Screening of Bins and Hoppers**

- (a) Council may, by notice in writing, direct the owner or occupier of any land to:

- (1) install;
- (2) repair; replace or
- (3) modify,

a fence or other means of screening an approved mobile bin or *trade waste hopper* from public view, if it is of the opinion that the approved mobile bin or *trade waste hopper* is:

- i. unsightly;
- ii. dangerous; or
- iii. detrimental to the general amenity of the neighbourhood in which it is located.

**Penalty: A Maximum of 20 Penalty Units**

## **12.9 Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres**

- (a) Council's recycling and waste transfer facilities, resource recovery centre will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by Council from time to time.

- (b) A person using Council's recycling and waste transfer facility or, resource recovery centre:

- (1) must pay the fees and charges and comply with the terms and conditions determined by the Council for use of the landfill, facility or centre for such persons, including Waste Disposal tickets and Hard Waste Vouchers;
- (2) must deposit waste in accordance with the directions of the facility attendant or Authorised Officer and in accordance with any signs erected at the landfill, facility or centre;
- (3) may only deposit material designated by Council from time to time;

- (4) may only deposit material permitted by any Environment Protection Authority Site Licences applying to the facility or centre from time to time; and
- (5) must not deposit any hazardous, dangerous or infectious materials.

**Penalty: A Maximum of 20 Penalty Units**

- (c) A person must not deposit any waste at any transfer facilities or resource recovery centre which is not at the time of deposit open to accept such waste or any such category of waste.

**Penalty: A Maximum of 20 Penalty Units**

**12.10 Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres**

- (a) A person must not, without a permit or permission of an Authorised Officer, remove material of any kind which has been deposited at any recycling and waste transfer facility, resource recovery centre.

**Penalty: A Maximum of 20 Penalty Units**

**12.11 Storage of Trade Waste**

- (a) The owner or occupier of any land must ensure that any trade waste hopper or other waste bin kept on the land and used for trade waste is:
  - (1) constructed of impermeable material;
  - (2) watertight;
  - (3) water, fly and vermin proof;
  - (4) equipped with any removable drainage plug required by an Authorised Officer, for public health or safety reasons;
  - (5) thoroughly cleaned following each occasion when it is emptied;
  - (6) equipped with a fly and vermin proof lid which is kept closed at all times except when trade waste is being deposited in or removed from the trade waste hopper;
  - (7) emptied at appropriate times or when an Authorised Officer directs for public health or safety reasons; and
  - (8) maintained in a clean, inoffensive and sanitary condition.

**Penalty: A Maximum of 20 Penalty Units**

### **12.12 Storage Site for Trade Waste**

(a) If directed by Council for public health or safety reasons, the owner of any land must ensure that any area where a trade waste hopper or other bins are placed:

- (1) is suitable for such placement or is an area directed or approved by an Authorised Officer;
- (2) has an impermeable surface;
- (3) is drained to a sewer approved by the local water authority for the receipt of any discharge or other outlet approved by Council;
- (4) is supplied with water from a tap and hose; and
- (5) is maintained in a clean, inoffensive and sanitary condition.

**Penalty: A Maximum of 20 Penalty Units**

### **12.13 Waste Receptacles on Roads and Reserves**

(a) Unless in accordance with this Local Law, a person must not, without a permit, place or cause to be placed on any road or reserve any mobile bin, trade waste hopper, waste container or waste materials of any nature.

**Penalty: A Maximum of 20 Penalty Units**

### **12.14 Obstructions on Roads or Council Land**

(a) A person must not, without a permit leave or allow to be left any bulk rubbish container on a road or Council land, or leave or allow to be left on a road, Council land or any charity bin.

**Penalty: A Maximum of 20 Penalty Units**

### **12.15 Commercial Waste**

(a) A person must not place, cause or allow to be placed or deposited any refuse, rubbish or waste from Commercial, Industrial or Trade premises in a bin in a *public place* or a household refuse receptacle or recyclable materials receptacle.

**Penalty: A Maximum of 20 Penalty Units**

## PART 13 ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW

### Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered. In particular, the system of applying for, obtaining and retaining *permits* is provided for. It also covers reviewing of decisions, delegations and *exemptions*.

### 13.1 Application for Permits

- (a) An application for a permit must be in the form prescribed by Council and must be accompanied by the appropriate fees prescribed by Council.
- (b) Council may require an applicant to:
  - (1) Provide additional information; and
  - (2) Give notice of the application or invite any person to make a submission or do both, before the application is determined.
- (c) A permit may include any condition which the Council considers to be reasonable and appropriate having regard to the activity to be authorised by the permit and the effects or anticipated effects of that activity.
- (d) Unless otherwise stated in the permit, a permit:
  - (1) Only authorises the person named in the permit to carry out the permitted activity; and
  - (2) Is not transferrable.

### 13.2 Decision on Permit Applications

- (a) After considering all relevant documentation Council may decide to:
  - (1) Grant a *permit*,
  - (2) Grant a *permit* subject to conditions;
  - (3) Refuse to grant a *permit*, or
  - (4) Exempt a person or class of persons from the requirement to obtain a *permit*.

### 13.3 Duration of Permits

- (a) A *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.
- (b) If no expiry date is indicated on the *permit*, the *permit* expires twelve (12) months after the date on which it is issued.
- (c) Before the *permit* expires, a person may request *Council* to extend the *permit* for a further period of time, not exceeding twelve (12) months.

### 13.4 Correction of Permits

(a) Council or an Authorised Officer may correct a permit issued if the permit contains:

- (1) a clerical mistake or an error arising from any accident, slip or omission; or
- (2) an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the permit.
- (3) Council or the Authorised Officer must note the correction in the register of permits.

### 13.5 Amendment, Cancellation and Suspension of Permits

(a) The Council may cancel, suspend or amend a permit at any time if:

- (1) it is required to do so by the *permit holder*, or
- (2) it considers that there has been:
  - i. a material misstatement or concealment of fact in relation to the application for the *permit*;
  - ii. any material mistake in relation to the issue of the *permit*;
  - iii. any material change of circumstances which has occurred since the grant of the *permit*; or
  - iv. a substantial failure to comply with the *permit* or a *Notice to Comply*.

(b) The *Council* must give written notice to a *permit holder* of any correction, cancellation, suspension or amendment of a permit.

(c) Before it cancels a permit, the Council must provide the permit holder an opportunity to make a submission on the proposed cancellation.

(d) If a permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any Notice to Comply subsequently issued by Council and the reason why it has been served.

### 13.6 Transfer of a Permit

(a) A *permit* is not transferable by the *permit holder* to any other *person* without the consent of *Council*.

### 13.7 Fees and Charges

(a) *Council* may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any Council property, undertaking, good, service or other act, matter or thing, as per *Section 77 of the Act*.

(b) *Council* may, from time to time by resolution, determine fees, charges, guarantees or bonds that are applied for the purposes of approvals required under this Local Law.

- (c) In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, including setting no charge.
- (d) *Council* may waive, reduce or alter any specific fee, charge or bond or guarantee with or without conditions.

### 13.8 Registers

- (a) *Council* must maintain a record of *permits*, including details of corrections and cancellations.
- (b) *Council* must maintain a register of determinations made and of *guidelines* or procedures prepared for the purposes of this Local Law.
- (c) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours otherwise in accordance with its Public Transparency Policy.

### 13.9 Delegation

- (a) Council may delegate to the Chief Executive Officer all powers, functions and duties under this local law, and authorise the Chief Executive Officer to delegate any powers to Authorised Officers and other Authorities.

### 13.10 Exemption from the requirement

- (a) *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times. An *exemption* may be granted subject to conditions.
- (b) A *person* must comply with the conditions of an *exemption*.
- (c) An *exemption* may be cancelled as if it were a *permit*.
- (d) Despite any provision in the Local Law requiring a *permit* to undertake any particular activity, no *offence* will arise where *Council* or its delegate has granted an *exemption* from the requirements to hold any such *permit* and the holder of that *exemption* carries out the activity authorised by, and in accordance with any conditions contained in, that *exemption*.
- (e) Where compliance with any condition of a *permit* or an *exemption* or other condition arising under this Local Law is impracticable in a particular circumstance. *Council* may exempt a *person* from compliance with that condition or vary the condition in a way which is capable of compliance.

### 13.11 Review Rights

- (a) If any *person* is aggrieved by the fairness or reasonableness of any action taken by *Council* or an Authorised Officer under this Local Law including failure to be granted a *permit*, they may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.

- (b) If the *Chief Executive Officer* elects to review the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer*, the result of that review must be communicated to the *person* who made the request in accordance with clause 13.11(a).

PROPOSED

## PART 14 – ENFORCING THIS LOCAL LAW

### Introduction

This part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be enforced. In particular, powers to impound and serve Notices to Comply and Infringement Notices. It also covers reviewing of decisions, delegations and *exemptions*.

#### 14.1 Failure to comply with this Local Law, permit or notice to comply.

(a) A person who:

- (1) contravenes or fails to comply with any provision of this Local Law or any document incorporated by reference;
- (2) contravenes or fails to comply with any condition contained in a permit issued under this Local Law; or
- (3) knowingly provides false information in support of an application for a permit issued under the Local Law;
- (4) knowingly supplies false or misleading information to an authorised officer;
- (5) fails to comply with a verbal direction issued, or a Notice to Comply served by an authorised officer;
- (6) fails to comply with a sign erected by Council; or
- (7) makes or attempts to make any agreement with an authorised officer to compromise their duty – is guilty of an offence and is liable to:
  - i. the maximum *penalty* stated under a provision or, if no *penalty* is stated, a maximum of two (2) *penalty units*;
  - ii. a further *penalty* of two (2) *penalty units* for each day after a finding of guilt or conviction for an *offence* during which the contravention continues; and
  - iii. upon conviction for a second or subsequent offence, double the penalty stated under a provision of penalty units.

#### 14.2 Notices to comply

- (a) *Council* or an *Authorised Officer*, may serve a *Notice to Comply*, direct an *owner occupier* or other *person* in breach of this Local Law to remedy anything which constitutes an *offence* under this Local Law.
- (b) A *Notice to Comply* must state the time and date by which the thing must be remedied.
- (c) The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:
  - (1) The amount of work involved;

- (2) The degree of difficulty;
  - (3) The availability of necessary materials or other necessary items;
  - (4) Climatic conditions;
  - (5) The degree of risk or potential for risk; and
  - (6) Any other relevant factor.
- (d) Any *person* who fails to remedy a thing in accordance with a *Notice to Comply* within the time specified is guilty of an *offence* under this Local Law.

**Penalty: Maximum of 10 Penalty Units**

**Note:** *Nothing in this Local Law obliges Council or an Authorised Officer to serve a Notice to Comply; or precludes Council or and Authorised Officer from both serving a Notice to Comply and also serving an Infringement Notice or prosecuting for an offence.*

### **14.3 Infringement Notice**

- (a) As an alternative to prosecution for an offence, an Authorised Officer may issue an Infringement Notice containing the information required by the Infringements Act 2006.
- (b) The infringement penalty for an offence against this Local Law is the Infringement penalty specified in Schedule 1.
- (c) If no infringement penalty is specified in Schedule 1 the infringement penalty will be 2 penalty units.
- (d) Procedural application for all Infringements issued under a Local Law will be dealt with in accordance with the provisions of the Infringements Act 2006.

### **14.4 Power of Authorised Officer to Act in Urgent Circumstances**

- (a) Where in the opinion of an *Authorised Officer*, a breach of the Local Law or a *permit* issued under the Local Law arises which may place a person, animal or property or thing at risk or in danger and there is not time or it is impractical to serve a Notice to Comply, then the authorised officer may take reasonable action to immediately abate or minimise the risk or danger identified.
- (b) As soon as practicable, the Authorised Officer must contact the person by whose fault, permission or decision the situation has arisen, whether they be the owner, occupier of the land, animal, property or thing involved.

### **14.5 Impounding or Seizure**

- (a) An Authorised Officer may seize and impound any item, thing or animal which is the subject of a breach of this Local Law or any legislation which is administered and enforced by Council.

- (b) Where any item, thing or animal is impounded or seized pursuant to this Local Law, notice of the impounding or seizure is to be given to the person that is known or appears to the owner of the impounded item, thing or animal.
- (c) Any item, thing or animal impounded or seized in accordance with this Local Law may be held until any fee or charge for its release is paid.
- (d) Council may include in any fee or charge any cost that Council has incurred in impounding, seizing, transporting, holding, storing or disposing of the item, thing or animal.
- (e) If the specified time for retrieval of an impounded or seized item, thing or animal has expired and it has not been claimed then it may be disposed of or destroyed according to the following principles:
- (1) If it has no saleable value, in the most economical and appropriate way as determined by an *authorised officer*, or
  - (2) If it has a saleable value, by public auction, tender or private sale as determined by an *Authorised Officer*.
- (f) The monies realised from the sale of any impounded or seized item, thing or *animal* must be disbursed as follows:
- (1) In payment of any expenses incurred by the *Council*
  - (2) The balance to be paid to the *owner* or *person* who in the opinion of *Council's Chief Executive Officer* appears to be authorised to receive them money.
- (g) If no *person* can be identified for payment of any money then any excess must be treated in accordance with legislation dealing with unclaimed money, or failing this, paid into the *Council's* revenue.
- (h) Clauses 14.5(b), 14.5(c), 14.5(d) and 14.5(i) do not apply to the impounding of alcohol under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the *person* from whom it was impounded or the *owner*.
- (i) If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, of the act of impounding, Council may, at its discretion:
- (1) sell;
  - (2) give away; or
  - (3) destroy
- the impounded thing.

## 14.6 Warning to Offenders

- (a) Where there is a breach of this Local Law an *Authorised Officer* may request the *person* breaching the Local Law to stop or remedy the breach.

### **14.7 Reviewing a Notice**

- (a) All requests for Infringement Notice review will be dealt with by way of Council's Internal Infringement Review Panel which may withdraw the Infringement Notice, deal with the Infringement Notice by way of official warning, extend the due date to allow additional time for payment, or to proceed with prosecution of the offence.
- (b) Where an Infringement Notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made on the Infringement Notice.

### **14.7 Requirement to Act Fairly and Reasonably**

- (a) In exercising any power under this Local Law, *Council* and an *Authorised Officer* must act fairly and reasonably and in proportion to the nature and extent of the breach of this Local Law.
- (b) Where Council or an Authorised Officer may take action forming any particular opinion, or, where Council or an Authorised Officer is required to form an opinion prior to taking any action under this Local Law, the opinion must be reasonably held having regard to all the circumstances.

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on the 25 September 2023.

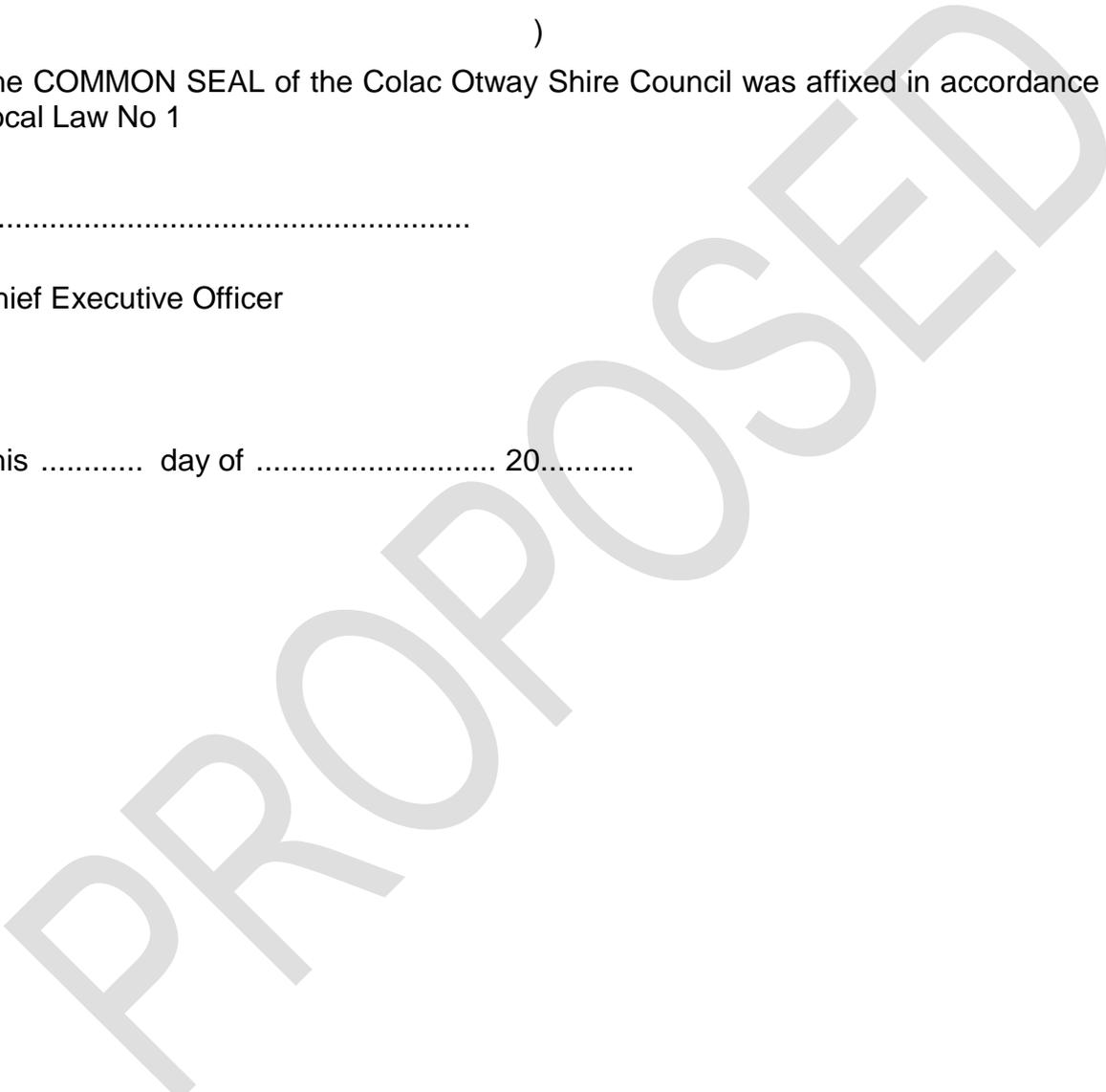
SIGNED SEALED AND DELIVERED )  
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The COMMON SEAL of the Colac Otway Shire Council was affixed in accordance with its Local Law No 1

.....

Chief Executive Officer

This ..... day of ..... 20.....



Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the ..... and the ..... respectively.

Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the ..... on ..... and ..... respectively.

A copy of this Local Law was sent to the Minister for Local Government on .....

**14.8 Schedule 1**Fixed Infringement *Penalties*:

<b>Clause</b>	<b>Fixed Penalty</b>
2.3(a)(3)	Three (3) <i>Penalty Units</i>
2.3(a)(6)	Three (3) <i>Penalty Units</i>
2.3(a)(7)	Three (3) <i>Penalty Units</i>
2.3(a)(14)	Three (3) <i>Penalty Units</i>
2.3(a)(16)i	Three (3) <i>Penalty Units</i>
2.3(a)(16)ii	Three (3) <i>Penalty Units</i>
2.3(a)(20)i	Three (3) <i>Penalty Units</i>
2.3(a)(20)ii	Three (3) <i>Penalty Units</i>
2.3(a)(20)iii	Three (3) <i>Penalty Units</i>
2.4(d)1	Three (3) <i>Penalty Units</i>
2.4(d)2	Three (3) <i>Penalty Units</i>
2.4(d)3	Three (3) <i>Penalty Units</i>
2.4(d)4	Three (3) <i>Penalty Units</i>
2.4(d)5	Three (3) <i>Penalty Units</i>
2.5(a) 1 - 5	Three (3) <i>Penalty Units</i>
2.5(a)6 i & ii	Three (3) <i>Penalty Units</i>
2.5(a)7	Three (3) <i>Penalty Units</i>
2.5(a)8	Three (3) <i>Penalty Units</i>
2.5(a)9	Three (3) <i>Penalty Units</i>
2.5(a)10	Three (3) <i>Penalty Units</i>
2.6(a) 1 – 16	Three (3) <i>Penalty Units</i>
7.7(a) 1 - 2	Three (3) <i>Penalty Units</i>
9.6	Four (4) <i>Penalty Units</i>
11.5(a)1	Three (3) <i>Penalty Units</i>